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12  
13 UNITED STATES DISTRICT COURT  
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15 NORTHERN DISTRICT OF CALIFORNIA  
16  
17 SAN FRANCISCO DIVISION

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20 UNITED STATES OF AMERICA, ) No. CR-08-0420-PJH(BZ)  
21 - v. - )  
22 RUSSELL ALLEN LYLES, JR., ) APPLICATION AND [PROPOSED]  
23 Defendant. ) ORDER ALLOWING FILING OF  
24 ) GOVERNMENT'S OPPOSITION OUT OF  
25 ) TIME  
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27 )  
28 )

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20 The Government respectfully submits this application to seek permission to file its  
21 Opposition to the Defendant's Motion for Reconsideration of the Court's Detention Order late  
22 and for permission to file this application out of time.

23 1. On June 17, 2008, the Court granted the Government's motion to detain the  
24 defendant. At the detention hearing, the defendant was represented by Anthony Brass, Esq.

25 2. Following the detention hearing, the defendant was indicted by a Grand Jury on  
26 June 26, 2008. On July 16, 2008, due to a potential conflict, Mr. Brass withdrew as counsel for  
27 the defendant and Alan Caplan, Esq., made a general appearance for the defendant.

28 3. On August 16, 2008, Mr. Caplan filed a Motion for Reconsideration of the

1 Court's Detention Order. Mr. Caplan, with the Government's consent, also sought to a shortened  
2 return date for his motion due to a medical issue. The Court granted Mr. Caplan's request and  
3 set August 27, 2008 at 1:30 pm as the hearing date. The Court also set August 25, 2008 at noon  
4 as the filing date and time for the Government's opposition.

5 4. Due to an error by the undersigned, the Government erroneously believed that  
6 August 25, 2008 was Tuesday, which is actually August 26, 2008. Accordingly, the date and  
7 time for the filing of the Government's opposition has passed without the Government filing its  
8 opposition or seeking an extension. Accordingly, the Government respectfully submits this  
9 application to seek permission to file its opposition late, i.e., by 9 pm on August 25, 2008,  
10 effective *nunc pro tunc*, and for permission to file this application out of time. Mr. Caplan has  
11 consented to the Government's request.

12 5. The undersigned regrets any inconvenience to the Court.

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14 DATED: August 25, 2008 /s/  
15 W.S. WILSON LEUNG  
Assistant United States Attorney

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18 IT IS SO ORDERED.

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20 DATED: August \_\_\_\_, 2008 \_\_\_\_\_  
21 HON. BERNARD ZIMMERMAN  
United States Magistrate Judge